

DIRECT DEMOCRACY “BUMPER CROP” POSSIBLE FOR 2004

Increased public interest in the electoral process generated by the recent recall of Governor Gray Davis and election of movie star Arnold Schwarzenegger as his successor appears likely to spill over to the 2004 elections. Even if Schwarzenegger doesn't feel the need to make good on his campaign pledge to use the initiative process to make laws if the Legislature refuses, there are a number of high-visibility items poised to be on the March 2004 primary ballot, and several more likely for November.

The deadline for qualifying initiative measures for the March 2004 ballot was October 23, and two made the cut: Proposition 55, a \$12.3 billion bond for Kindergarten-University Public Education facilities sponsored by the Legislature ([AB 16](#) (Hertzberg) of 2002); and Proposition 56, the labor-backed “[Budget Accountability Act](#)” initiative focused primarily on lowering the number of votes required to pass the state budget from the current two-thirds majority of each house to 55%.

Another legislatively-sponsored measure, the “Safe, Reliable High-Speed Passenger Train Bond Act of the 21st Century” ([SB 1856](#) of 2002) has already qualified for the November 2004 ballot.

Although the deadline for initiatives seeking a spot on the March ballot has passed, proponents of referenda to overturn pieces of legislation approved by the Legislature and Governor Davis in 2003 do not have to submit the required signatures until February 2, 2004, 31 days prior to the March election. Three referenda currently are circulating that appear likely to qualify for that ballot:

- A referendum (#[999](#)) to block the law permitting illegal immigrants to obtain driver's licenses ([SB 60](#)) – Deadline December 7.
- A referendum (#[1002](#)) to block the law increasing legal rights of domestic partners ([AB 205](#)) -- Deadline December 21.
- A referendum (#[1008](#)) to block the law requiring employers to provide health care benefits to employees ([SB 2](#))-- Deadline January 4.

If the proponents of these referenda obtain the necessary signatures by their specified deadlines, the targeted laws will not take effect unless they are approved by the voters.

In addition to the 2-5 “direct democracy” measures likely to be on the March 2004 ballot, there are literally dozens of prospective initiatives taking aim at November 2004. As of October 29, there were 27 circulating initiatives and 11 in the Attorney General's office awaiting title and summary prior to signature-gathering – 38 in all --that could be on the November ballot.

Most of these initiatives likely will not qualify for the November 2004 ballot. Historically, the vast majority of initiatives titled and summarized by the Attorney General either fail to qualify or are withdrawn (24 of 27 in 2002, 32 of 37 in 2001, etc.). Only one initiative in each of the past three years has actually been approved by the voters, the latest being Proposition 49 of 2002, relating to Before and After School Programs and sponsored by then-private citizen Schwarzenegger.

On the other hand, because the number of signatures needed to qualify an initiative is a percentage (8% for a constitutional amendment, 5% for a statute) of the votes cast in the last general gubernatorial election – and because the voter turnout at that last regular election in November 2002 was extremely low – the number of signatures needed to qualify an initiative (598,105 for a constitutional amendment and 373,816 for a statute) is the lowest it's been in over 13 years. The relative ease and cheapness of the process provides incentive for more interest groups to use the initiative process, and increases the likelihood that individual initiatives will qualify for the ballot.

Many of the measures being proposed are sponsored by lawmakers who have chosen to go directly to the people after failing to get their proposals through the Legislature. These include two measures by [Sen. Tom McClintock](#) (R-Thousand Oaks) to [repeal the Vehicle License Fee](#), and a proposal by [Assm. Darrell Steinberg](#) (D-Sacramento) to [raise taxes on millionaires to fund mental health](#). Other significant initiatives currently in the hopper include a measure to completely [overhaul California's Unfair Competition Law](#), as described in last week's *Sacramento Scene*, and an [election reform initiative](#) sponsored by former gubernatorial candidate Arianna Huffington.

Additional information on pending direct democracy measures can be found at the [Secretary of State's web site](#).

TAKING THE INITIATIVE

If Gov. Arnold Schwarzenegger decides to go over the heads of a recalcitrant Legislature next year by proposing one or more initiatives directly to the people, he will not be the first governor to have done so. But this is a tricky business, and he would be wise to look at the history of governor-sponsored initiatives, because most of them have failed.

Governors go to the people in two ways. A ballot measure to resolve the budget crisis via a "grand deal" with majority Democrats would probably be successful, since it would be placed on the ballot with a two-thirds vote of the Legislature. That's how bond issues make the ballot, and most of them pass.

But governors since Ronald Reagan have chosen to bypass the Legislature and proceed with their own plans via the initiative process. This is where the failures appear. In 1973, Reagan qualified Proposition 1, an initiative to cap growth of the budget. Democrats, led by then-Assembly Speaker Bob Moretti, campaigned up and down the state to defeat the proposal, and they did so. True, Reagan was in the twilight of his governorship and might have done better had he gone to the people sooner, closer to the 1966 landslide that initially put him in office. Nonetheless, the vote against him was a decisive 54 to 46 percent even though he had called a special off-year election to focus attention on the measure. Interestingly, Proposition 1 would have reduced state spending by the enormous amount of about a billion dollars a year. But without this cap, state revenues and spending skyrocketed in the 1970s, and that helped trigger Proposition 13 five years later. Proposition 1 looked pretty mild compared to Proposition 13.

Gov. Jerry Brown pretty much avoided ballot measure politics, with the sole exception of Proposition 14 in 1976, a farm labor initiative supported by farm workers. It went down by a mile and Brown then amused himself by running for president.

His successor, Gov. George Deukmejian, helped sponsor Proposition 8 in the 1982 primary, an extensive and successful criminal justice reform. But in 1984, Deukmejian sponsored a redistricting reform, Proposition 39. It went down by a 55 to 45 percent margin. In 1988, Deukmejian was one of the signatories opposing Proposition 98, the school funding formula. But it passed with 50.7 percent of the vote.

Gov. Pete Wilson was much more active in using direct democracy than any of his predecessors. In 1992, two years into his term, he sponsored Proposition 165, which increased his powers as governor over the budget process and also cut welfare spending. Democrats vigorously opposed the measure, and it was defeated with 53 percent of the vote in the November 1992 election. That same election saw Bill Clinton carry California for President, and Democrats win both US Senate seats.

The 1992 election was such a disaster for Wilson some Democrats talked of a recall campaign against him in 1993. Others noted that State Treasurer Kathleen Brown was such a shoo-in to beat him in 1994 that a recall was not worth the effort.

The year 1994 is best remembered for the famed Proposition 187, cutting off services to illegal aliens. Gov. Wilson did not sponsor it but did strongly endorse it. While this measure helped him win a landslide re-election that fall, it also laid the groundwork for the Democrat rebound in 1998 by energizing anti-Wilson Latino voters. In 1996, Wilson helped sponsor the successful Proposition 209 outlawing affirmative action. But in the 1998 primary, Wilson put his prestige behind another controversial measure, Proposition 226, that would have restricted labor union political contributions. The measure was thought to be an easy winner, but lost with 53 percent of the vote. It also mobilized the labor movement and in conjunction with newly enfranchised Latino voters, labor provided the shock troops for the big Democratic landslide later that year that made Gray Davis governor.

Davis was the only governor in modern history who did not get behind an initiative of one kind or another. Should that be a signal for Gov. Schwarzenegger to avoid an appeal to direct democracy? Not necessarily. But history does show that governors should pick their times and targets carefully and make sure the public is with them before they put their names on a ballot measure. It is also a sign that just because a governor sponsors an initiative does not mean it will be a success.

Note: The preceding article is reprinted with the permission of its author, Dr. Tony Quinn, co-editor of the California Target Book, a nonpartisan analysis of legislative and congressional elections. Dr. Quinn notes that Governor Davis was an active supporter of Proposition 39 of 2000, lowering the threshold for approval of school bonds, but was not a sponsor or co-sponsor of the measure.